

Act 691 of the 1989 Regular Session.

Act 691

HB1610

By: Representatives Jones and Lendall

"AN ACT TO BE KNOWN AS THE ARCHITECTURAL BARRIERS  
ACCESSIBILITY ACT OF 1989."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Short Title. The Act shall be known as the "Architectural Barriers Accessibility Act of 1989."

SECTION 2. Policy. It is the policy of the State of Arkansas to accord all handicapped persons all rights and privileges afforded to other persons with respect to the safe convenient use of the man-made environment.

SECTION 3. Definitions. (a) "Blind or visually impaired" means that the person's central visual acuity does not exceed 20/200 in the better eye with corrective lenses, as measured by the Snellen Test, or visual acuity that is greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty degrees (20`);

(b) "Deaf or hearing impaired" means that the person's average loss in the speech frequencies of 500 to 2,000 Hertz in the better ear is eighty-six (86) decibels by the International Organization for Standardization (I.S.O.) or worse;

(c) "Severely mobility impaired" means the person has lost the use of a single or both lower extremities including, but not limited to, conditions of weakness or spasticity associated with cerebral palsy, arthritis, paraplegia, quadraplegia, single or double lower extremity above the ankle amputation, etc., and this condition results in the inability to travel more than one hundred feet (100') without the use of a wheelchair, crutches, two (2) canes, long leg braces, prosthesis, or walker, as determined by a physician;

(d) "Substantially remodeled" means alterations or repairs to an existing building costing in excess of fifty percent (50%) of the then physical value of the building.

SECTION 4. Scope. (a) The standards and specifications set forth in this act shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not otherwise indicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this act from any one of these funds or any combination thereof shall conform to each of the standards and specifications prescribed herein except where the enforcing agency shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the

determination and forwarded to the State Architectural Barriers Advisory Board. If it is determined that full compliance is not practicable, there shall be substantial compliance with the standard of specification to the maximum extent practical, and the written record of the determination that it is impractical to comply with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(b) These standards and specifications shall be adhered to in those buildings and facilities constructed or substantially remodeled after January 1, 1990.

(c) These standards and specifications shall be adhered to in all buildings leased or rented in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1990. To such extent as is not otherwise indicated by federal law or beyond the power of the state's regulation, these standards shall also apply to buildings or facilities leased or rented for use by the state through partial or total use of federal funds. Facilities which are the subject of lease or rental agreements on January 1, 1990, will not be required to meet standards and specifications for the term of the existing lease or rental agreement but must be brought into compliance before a lease or rental agreement is renewed. Where it is determined by the enforcing agency or unit concerned that full compliance with any particular standard is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the Architectural Barriers Advisory Board. If it is determined that full compliance is not practical, there shall be substantial compliance with the standard or specification to the maximum extent practical, and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(d) These standards and specifications shall be adhered to in certain privately financed buildings, building elements, and improved areas which are open to public use for education, employment, transportation, or acquisition of goods and services, and which are constructed on or after January 1, 1990. Such facilities include and are limited to the following:

- (1) shopping centers which contain in excess of five separate mercantile establishments;
- (2) transportation terminals;
- (3) theaters and auditoriums having a seating capacity of 200 or more patrons;
- (4) hospital and related medical facilities which provide direct medical service to patients;
- (5) nursing homes and convalescent centers;
- (6) professional office buildings, buildings containing 20,000 or more square feet of floor space and wherein commercial activity or profession is practiced in all or the majority of such building or structure;
- (7) funeral homes;
- (8) commercial business schools, trade schools or colleges.

Section 5. Responsibilities. (a) State Building Services: It shall be the responsibility of Arkansas State Building Services to adopt, maintain, update and distribute standards and criteria, establishing technical requirements for handicapped accessibility in all construction covered by this law. State Building Services shall review all contract documents for construction covered by this law and shall be responsible for the interpretation of standards and criteria required by this law.

(b) Architectural Barriers Advisory Board. (1) There is hereby

established, The Architectural Barriers Advisory Board consisting of the following nine (9) members to be appointed by the Governor; an architect, an attorney, a contractor, the Arkansas State Architect, a member of the staff of the State Rehabilitation Services Division, and four (4) disabled persons, one who is blind or visually impaired, one who is deaf or hearing impaired, one who is severely mobility impaired, and one who uses a wheelchair for at least ninety percent (90%) of his transportation.

(2) The board shall review, document and negotiate for correction of all violations of this law. When the board is unable to resolve a violation of the law, it shall submit all documents to the Attorney General for prosecution. The board shall receive, through State Building Services, all requests for variance from the standards and criteria. The board shall determine the disposition of all variance requests and the decision of the board shall be final. The board shall determine appropriate measures when the published standards and criteria do not cover a barriers problem. The board shall maintain files or current information and advise State Building Services of the need to update standards and criteria. The board shall be authorized to conduct public awareness, educational and training programs concerning handicapped accessibility issues.

(c) Local authorities, as designated by the city or county, shall be responsible for the enforcement of this law.

(d) The primary design professional for any construction covered by this law shall be responsible for the production of construction documents which are in compliance with all aspects of this law.

(e) The contractor shall be responsible for the construction of the project in compliance with construction documents issued by the design professional.

(f) It shall be the owner's responsibility to cooperate with and assist the design professional in every way possible to assure that the project, when completed, complies with all aspects of this law.

SECTION 6. Enforcement. (a) The administration of these rules shall be enforced by local officials as defined in the code, including building inspectors of every city, and if there be no building inspector, then in cooperation with the mayor, the board of directors or alderman of every town, and the county judge of every county, who are required to enforce all standards and criteria of State Building Services which are germane to handicapped accessibility.

(b) With the rules issued by State Building Services as a basis, city ordinances may go more into detail if desired, or may contain more stringent requirements, provided the same do not conflict with any rule or order of State Building Services.

SECTION 7. Standards. State Building Services is authorized to promulgate such rules, regulations, standards and technical specifications as may reasonably be required to implement and enforce this act. These rules, regulations, standards and specifications shall meet or exceed the most recently published standards of the American National Standards Institute for handicapped accessibility. When changes to the ANSI Standards are published, State Building Services shall, within 120 days, conduct public hearings in conformance with the Administrative Procedures Act concerning the adoption of these changes into the State Building Services rules, regulations, standards and specifications. State Building Services shall actively seek the advice of and shall confer with the Architectural Barriers Advisory Board, concerning the promulgation of these rules, regulations, standards, and technical specifications.

SECTION 8. Interpretation. Interpretation of the rules, regulations, standards and specifications of this act shall be the responsibility of the Arkansas State Architect. The state architect may, at his discretion, submit questions to the Architectural Barriers Advisory Board for resolution. Final resolution of all questions shall remain the responsibility of the State Architect.

SECTION 9. Review of Construction Documents. Construction documents for all projects covered under this act shall be submitted to State Building Services twenty (20) days prior to advertising for bids. A letter of compliance from State Building Services shall be submitted to the issuing agency prior to the issuance of a building permit for any project covered under this act. If no building permit is required, a statement of compliance from State Building Services must still be obtained.

SECTION 10. A variance from the provisions of section 4 or section 7 of this act may be granted by the Architectural Barriers Advisory Board. Request for variance shall be submitted to the secretary of the board 90 days prior to the anticipated start of construction. Within 30 days following receipt of the request, the board shall, through the offices of State Building Services, hold a public hearing concerning the request. The decision of the board shall be final.

SECTION 11. The Attorney General shall investigate any complaint or reported violation of these standards, and where necessary to ensure compliance with these standards, the Attorney General may, at any time, bring action for mandamus, injunction or other appropriate relief.

SECTION 12. Any person who violates any provision of this act shall be guilty of a Class B misdemeanor. Any person who begins construction without a letter of compliance from the State Building Services, shall be guilty of a Class B misdemeanor. Further, for each subsequent violation, the fine shall be doubled. And, if the violation is continuing in nature in respect to time, the fine shall not exceed two hundred fifty (\$250.00) dollars for each day the provisions of this act are violated.

SECTION 13. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 14. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 20, 1989

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